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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/161,816	09/28/1998	MALCOM B. STRANDBERG	DAVOX-142XX	8075
28452	7590	01/13/2005	EXAMINER	
BOURQUE & ASSOCIATES, P.A. 835 HANOVER STREET SUITE 303 MANCHESTER, NH 03104			AGDEPPA, HECTOR A	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/161,816

Applicant(s)

STRANDBERG, MALCOM B.

Examiner

Hector A. Agdeppa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1, 4 – 11, 21 – 23, 26, 28, and 29 - 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton), and further in view of applicant's admitted prior art and US 2001/0040887 (Shtivelman et al.)

Bateman et al. teaches a method and system for coordinating communications via customer contact channel changing system, using a call center for setting up the call between the customer and an available help agent from a pool of agents, wherein a call back is provided from a request over a data path 6 from a data terminal 4, the call back data including a telephone number to be dialed. (Col. 4, line 51 – Col. 5, line 12 and Col. 6, lines 14 – 19) Furthermore, Bateman et al. teaches a server 28 for receiving requests and forwarding call back data to a remotely located outbound dialer system 32 having a HOTLIST wherefrom telephone numbers to be dialed may be retrieved and processed. (Col. 5, lines 35 – 67 and Col. 6, lines 41 – 50)

Bateman et al. also teaches the aforementioned data path being one or a combination of a direct data path, a LAN or WAN, and/or the PSTN. (Fig. 1)

Bateman et al. teaches that the call back request includes customer indicia, a time to call back, and a message, wherein the message may be comprised of voice and/or text and/or DTMF tones. (Col. 6, line 1 – Col. 7, line 13) Note that Bateman et al. teaches the use an IVR (interactive voice response) system and it is inherent that in an IVR system a customer may respond by pressing buttons on a conventional telephone i.e. DTMF tones or even when a customer may respond via voice, the voice is converted into DTMF tones for processing by the IVR system.

Bateman et al. further teaches a MMM 50 acting as a call scheduler responsive to the aforementioned HOTLIST for ordering and scheduling the telephone numbers to be dialed at approximately the time designated or scheduled to be called back or even immediately. (Col. 7, lines 28 – 61) Furthermore, depending on the data connection type the customer has, an immediate connection may be made with an available agent over a network with the use of ISDN or SVD, so as to allow for the simultaneous exchange of voice and data and waiting for, for example, a customer to disconnect from a dial-up ISP to allow access to a conventional phone line. (Col. 10, lines 25 – 31)

Bateman et al. also teaches the use of CGI programs. (Col. 5, lines 56 – 60 and Col. 7, lines 28 – 42)

Lastly, Bateman et al. also teaches a "substantially immediate" callback in another embodiment wherein a customer may desire for example, "Live Help" instead of a scheduled callback at a later time. (Col. 6, lines 14 – 29)

Moreover, as seen in Fig. 8, the customer premises shows a telephone 120 and a computer 124, wherein the computer may be connected via modem 126 to the only

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telephone network taught, the PSTN 116, which is the same telephone network that telephone 120 is connected to. Also, note that the agent will be calling the customer premises over that very same PSTN telephone network.

What Bateman et al. does not teach is the callback being repetitive when encountering a busy signal.

However, Sutton teaches an extremely old and well-known feature of telephony systems which is the continuous redialing of a telephone number in the event that a busy signal is encountered.

Because continuous redialing is such an old and well-known feature, it would simply be an obvious design choice or preferred mode of operation that one skilled in the art would employ in the invention of Bateman et al. If a business encounters a busy or no-answer when calling a customer, there is motivation to keep re-trying/redialing that customer in order to get that customer's business. It would not be good business-sense to merely give up after unsuccessfully attempting to reach a customer only one time.

Moreover, it is arguable that Bateman et al. does not teach a situation wherein the customer premises includes a computer and telephone device connected to the same telephone line wherein the premises is unable to support both voice and data communications.

On the one hand, applicant admits on page 4 of the specification for the present invention that it is known to have a customer premises wherein only one telephone line connects a telephone to the PSTN and a computer to the Internet and that such a

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configuration would not necessarily support both voice and data. As also taught by Shtivelman et al., a customer premise may include a telephone and computer connected to the same telephone line and if a customer wishes to accept a callback from a call center agent as a PSTN call to a telephone 2111, he/she must end the Internet session. (P. 18, ¶ 0208 – P. 19, ¶ 0217 of Shtivelman et al.) However, if some type of voice over IP (VOIP) communications is desired, then even using only one modem or one communications line, whether analog or digital, voice and data can be supported simultaneously. (P. 18, ¶ 0212 – 0213 of Shtivelman et al.)

Both Bateman et al. and Shtivelman et al. teach computer/data communications integrated with telephony communications regarding call center communications. Moreover, as discussed, it is old and well known to have customer premises wherein PSTN voice and data communications cannot be supported simultaneously. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have allowed a continuous redialed callback for those customers whose premises could not simultaneously support both voice and data.

Given that it was known to submit callback requests via the Internet (applicant's specification P. 3) and that certain customer premises only had one telephone line connecting him/her to both the PSTN and Internet, the only way a callback could be made is to wait for him/her to disconnect from the Internet. This is precisely why continuously redialing the customer's number is necessary – because the present invention must wait for a customer to disconnect from the Internet. Note that such a feature is not even attributable to the claimed invention, because it is merely waiting for

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a circumstance or event that must be performed manually. And as also already discussed, continuous redialing is extremely old and well known.

Even the teaching of Bateman et al. alone suggests the obviousness of the present invention. Bateman et al. uses SVD modems or more than one connection to the Internet and PSTN for example. However, Bateman et al. addresses the issue of allowing a customer to simultaneously view information and speak with a live agent. If only voice communications were desired, Bateman et al. already teaches that it is old and well known to request live communications using the Internet. Nothing in Bateman et al. teaches away from a customer disconnecting from the Internet to receive a PSTN voice call if that was the only connection he/she had. Moreover, nothing regarding the dual connections or SVD modems, etc. is pertinent to the submission of live help or callback requests, the storage of such requests, nor to the scheduling of or immediate callback. Bateman et al. essentially just teaches a more advanced application of the present invention that was reduced to practice at least 3 years before the present invention. Therefore, one of ordinary skill in the art could have moved backwards and made the invention of Bateman et al. more basic to arrive at the claimed invention regarding the live help and callback request aspect.

Regarding claim 21, Bateman et al. teaches the use of Internet services with multiple media formats and it is well known to use JAVA over the Internet. Therefore it would be an obvious design choice by one skilled in the art whether to use CGI or JAVA so as to allow for the transmission of the call back data over the Internet.

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2. Claims 12 – 20, 27, and 34 - 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton), and further in view of applicant's admitted prior art, US 2001/0040887 (Shtivelman et al.), and US Pat 5,214,688 (Szlam et al.)

As to claims 12 – 20, and 27, Bateman et al., Sutton, and Shtivelman et al. have been discussed above. What they do not teach is a predictive dialer, wherein the predictive dialer has a call pacer. Furthermore, Bateman et al. does not teach appending a non-answered call to a future call campaign.

However, Szlam et al. teaches a method and apparatus for dynamic and interdependent processing of inbound calls and outbound calls, wherein a pacing, predictive dialer is used (Fig. 4 and Col. 11, line 50 – Col. 12, line 7 of Szlam et al.) as well as assigning a call to a next campaign (Col. 9, lines 5 – 8 of Szlam et al.)

It would have been obvious to include the aforementioned features of Szlam et al. in the combination of Bateman et al., Sutton, and Shtivelman et al. so as to allow for the dynamic adjustment of call completion in response to various call scenarios and situations as noted in Columns 2 and 3 of Szlam et al.

As to claims 34 – 36, see the rejection of claims 29 – 33.

Response to Arguments

3. Applicant's arguments with respect to claims 1 - 36 have been considered but are moot in view of the new ground(s) of rejection.

However, applicant's arguments have been addressed in the above rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

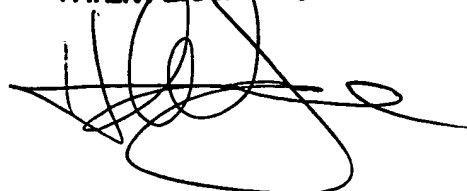
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hector A. Agdeppa
Examiner
Art Unit 2642

H.A.A.
January 5, 2005

HECTOR A. AGDEPPA
PATENT EXAMINER

A handwritten signature in black ink, appearing to be 'H.A. Agdeppa', written over the printed name and title.